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# THE INTERNATIONAL LABOR ORGANIZATION

by

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with the aid of the Research Staff of the Foreign Policy Association

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## INTRODUCTION

BY a joint resolution<sup>1</sup> which the Senate unanimously approved on June 13 and the House passed three days later, the President was authorized to accept membership for the United States in the International Labor Organization, with the proviso that such action involved no obligations for this country under the Covenant of the League of Nations. Speaking at the annual Conference of the International Labor Organization in Geneva which closed on June 23, Harold B. Butler, Director of its permanent Office, hailed the Congressional resolution as "a great turning point in the history of the Organization." Observers representing the government and the employers and workers of the United States were in attendance. On June 22, by unanimous vote of the delegates, the Conference decided to invite the United States to accept membership in the International Labor Organization as soon as possible. A full Governing Body was elected by the Organization for the next three years, but only after three states had privately agreed to surrender to the United States, immediately upon that country's entrance into the I. L. O., their seats for government, employers' and workers' delegates.

The relations of the United States to the I. L. O. have assumed new importance since the Roosevelt administration, in carrying out its national recovery program, has undertaken to accomplish in this country what the International Labor Organization is attempting to achieve on an international scale. The industrial codes promulgated under the N.R.A. include labor provisions which forbid employment of children, limit working hours, establish minimum wage rates, or call for avoidance of particular abuses likely to arise in given occupations. Such provisions require the observance of certain employment policies as a condition of fair competition.

The attempt to offer goods at lower prices than those of competitors puts pressure on all producers to keep down their

costs, including those of labor. The theory on which labor provisions have been included in the N.R.A. codes is that it is in the interest of general public welfare that workers' standards of living should not fall below an acceptable level, and that efforts to secure competitive advantages by imposing socially undesirable conditions of labor do not constitute a "fair" method of competition. The International Labor Organization is acting on the same theory in establishing international standards for labor policies. Commodities produced by various countries compete in world markets precisely as those offered by the various producers within one country compete in its domestic market. The experience of the I. L. O. in fifteen years of activity and the methods it has found useful are of special interest in relation to the American experiment.

## ORGANIZATION AND WORK OF THE I.L.O.

The International Labor Organization, like the National Recovery Administration, was established in a time of crisis. But the crisis which brought it into being was political as well as economic, and the Organization was created with the double purpose of improving conditions of labor and laying foundations for peaceful relations between states. Its constitution was written into the peace treaty which closed the World War, and begins with the statement that permanent peace can be established "only if it is based on social justice."<sup>1a</sup> Its primary task is to promote world stabilization by establishing economic security for the masses.

While the terms of peace were still under discussion, representatives of organized labor from various industrial countries met in two international conferences and demanded sweeping economic reforms. These demands were not entirely new. But the circumstances under which they were presented made them potent reminders that discontent among the

1. For text of resolution, cf. *Congressional Record, Senate*, June 13, 1934, p. 11681.

1a. Cf. *Treaty of Peace between the Allied and Associated Powers and Germany signed at Versailles on 28th June, 1919* (hereinafter cited as *Treaty of Versailles*), Part XIII.

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masses is a standing threat to internal and international peace.<sup>2</sup> The imperial governments of Russia and Germany had just been overthrown and replaced by forms of government more responsive to the popular will; the example of those countries had fired the imagination of the discontented everywhere, and it seemed not impossible that war might be succeeded by a period of revolution. Efforts to establish "social justice" seemed, therefore, incumbent on those who desired to assure a permanent peace.

Such efforts, to be successful, had to be made on a world scale.<sup>3</sup> Substantial improvements in conditions of employment are not easily achieved by one country at a time. Labor legislation adopted country by country has faced the same type of opposition as that which must be overcome in securing labor legislation state by state in the United States. This opposition comes from individuals or groups who believe, rightly or wrongly, that legislation requiring improvement in the conditions of labor increases production costs and prevents the producers of the affected region from holding their own in competition with outsiders, forcing them out of business and creating unemployment for the workers it was intended to benefit.<sup>4</sup>

The preamble to the constitution of the International Labor Organization declares that "the failure of any nation to adopt humane conditions of labor is an obstacle in the way of other nations which desire to improve conditions in their own countries." The Organization was primarily designed for dealing with that obstacle. Its structure is simple, consisting of an annual conference of representatives of its members, a board of directors known as the Governing Body, and a permanent office. The Conference adopts draft agreements formulating standards for employment conditions and such social policies as may affect the lives of either manual or brain workers. These agreements come into force between those member governments which voluntarily ratify them, and thereby undertake to enact and enforce legislation to secure observance of the specified standards. The Conference also adopts so-called "recommendations," giving collective approval to policies which it seems unnecessary or, for some reason, impracticable or undesirable to embody in a general agreement. While recommendations usually take the place of that type of resolution by which an organ-

ization records collective opinion, the Conference has, on occasion, expressed its views by means of resolutions. And it frequently makes use of resolutions to express the will of the Organization with respect to its own activities.

#### The Conference

The ultimate source of authority within the Organization is the Conference—the one gathering in which all members are included in a representative capacity. The present membership numbers 58 out of 64 presumably eligible governments.<sup>5</sup> To the Conference are submitted the annual report of the Director of the Office and a summary of the annual reports of member governments on enforcement of conventions. While the work of the Conference centers mainly around discussion of convention projects, it does not deal with these alone. The report of the Director of the Office usually raises questions of policy, which are discussed by the delegates.

Each member government is entitled to send to the International Labor Conference four delegates, of whom two are to be government delegates and two "delegates representing respectively the employers and the work people of the country." These last must be chosen by the governments "in agreement with the industrial organizations, if such organizations exist, which are most representative of employers or work people as the case may be."<sup>6</sup>

The Conference regularly meets in Geneva, usually late in May, and lasts for about three weeks. Most of its work is done by committees, on each of which the three types of delegates are equally represented—the government, the employers' and the workers' delegates meeting as separate "groups" to elect representatives of the group for each committee. Every member is entitled to send with each of its delegates two "technical advisers" for each item on the agenda.<sup>7</sup> These advisers may replace on committees the delegates they accompany.

In the early days of the Organization, conventions were adopted after discussion at one annual session of the Conference. It was found, however, that sometimes a non-essential requirement of a convention blocked its ratification by governments which might have agreed to alternative provisions. After some experimentation, the Conference adopted in 1926 a "double discussion procedure" by which the subject of a proposed convention is discussed at two successive sessions of the Conference.<sup>8</sup> In the year between the two

2. James T. Shotwell and others. *The Origins of the International Labor Organization* (New York, Columbia University Press, 1934). Part I, Chap. III, and Part II; and Shotwell, "The International Labor Organization as an Alternative to Violent Revolution," *The Annals of the American Academy of Political and Social Science*, March 1933, p. 18.

3. J. H. Richardson. *Economic Disarmament* (London, Allen and Unwin, 1931), Chap. VI.

4. Sir Malcom Delevingne, "The Pre-War History of International Labor Legislation," and Ernest Mahaim, "The Principles of International Labor Legislation," *The Annals*, March 1933.

5. The exact number of governments to be rated as independent and autonomous has never been determined.

6. *Treaty of Versailles*, Part XIII, Art. 389.

7. Few countries assume the expense of sending all the advisers permitted.

8. *The International Labor Organization; The First Decade* (Geneva, International Labor Office, 1931), p. 73.



sessions, convention projects become the subject of study in member countries and of correspondence between them and the Office, and may be worked on by committees of experts.

There are always more subjects proposed for conventions than can possibly be considered by the Conference. After canvass by the Governing Body and preliminary study by the Office, those subjects are selected for Conference consideration which seem most important and on which general agreement appears most likely.<sup>9</sup> After this preliminary work of selection, few topics have been placed on the agenda which have not ultimately become the subjects of draft conventions.

It was early found desirable to adopt separate conventions to apply to industrial, commercial, agricultural and maritime workers—even when essentially similar provisions were contemplated for more than one type of employment, as in the cases of the provision of workmen's compensation for accident, regulation of working hours or restriction of child labor. The special conventions applying to commerce and agriculture have been adopted at regular conference sessions. The conditions of employment of seamen are, however, so unlike conditions and problems of land employment that shipowners and seamen have been of the opinion that a general conference was scarcely competent to take decisions applying to them. Three conferences have therefore been held specially for discussion of employment of seamen, and another is projected for 1935. These conferences are attended only by maritime countries. Nevertheless, such conferences are conducted in the usual fashion, take conclusive action and are regarded as regular conferences of the Organization. Technical conferences may be called in connection with the regular annual Conference<sup>10</sup> and various gatherings are convoked by the Organization which rank somewhere between committee meetings and conferences of members.<sup>11</sup>

The Governing Body, which consists of thirty-six members, is made up of representatives of governments, employers and workers in the same proportion as the Conference. Eight of the twelve government seats are assigned to the governments of

those eight countries which are held to be of chief industrial importance; all other seats are assigned, for three-year terms, by election of the groups in the Conference.<sup>12</sup>

#### The Governing Body

The Governing Body meets regularly four times a year and in special sessions when occasion demands. While its headquarters, like those of the Conference, are in Geneva, it has in recent years made a point of holding some of its meetings in other places. It has various functions: it draws up the agenda for Conferences, allocates the budget and determines, in outline, the work to be done by the Office.<sup>13</sup> It is responsible, among other things, for the creation of committees other than Conference committees and those functioning strictly within the Office.

The development of a system of committees to deal with particular problems has perhaps done as much as anything else to extend and elaborate the services of the Organization. At the same time it has served to focus and sustain the interest of its members. Besides assigning to nine committees of its own membership the study of special problems with which the Organization is dealing or may deal, the Governing Body has set up nine "mixed" committees on which its members sit with specially appointed experts or representatives of other institutions, and six committees consisting entirely of experts of various nationalities.<sup>14</sup> The committees serve as purveyors of information and advice to the Governing Body and the Office, and as advance feelers for the Conference. Before a question is brought up for general discussion, they may work out some outline of adjustment or compromise acceptable to those who will have most influence on the final decision.

#### The Office

The International Labor Office is located at Geneva. The members of its staff constitute

12. The government group votes representation to specified governments; the employers' and workers' groups vote for individuals. *Treaty of Versailles*, Part XIII, Art. 393. The eight member countries accounted of chief industrial importance are Belgium, Canada, France, Germany, Great Britain, India, Italy and Japan. When the United States joins the Organization, it will replace whichever of these eight countries is, at the time, held to be of least industrial importance. Those at present entitled to representation by vote of the government delegates in the Conference are: Denmark, Brazil, Spain and Poland. The size of the Governing Body is being increased by eight, and there will be four more governments elected to representation.

13. Cf. standing orders of the Governing Body in the Constitution and Rules of the International Labor Organization.

14. *Committees of the Governing Body*: Committees on Social Changes, Conditions of Work in the Textile Industry, Cost of Living and Wage Statistics, Conditions of Work in Coal Mines, the Language Question, Freedom of Association, Unemployment and Overseas Questions, and the Preparatory Subcommittee on Handicraftsmen.

*Mixed Committees*: Joint Maritime Commission, Mixed Advisory Agricultural Committee, Migration Committee, Advisory Committee on Professional Workers, Correspondence Committee on Industrial Hygiene, Correspondence Committee on Accident Prevention, Committee on Automatic Coupling, Committee of Inquiry on Questions of Public Works and National Technical Equipment.

*Committees of Experts*: Correspondence Committee on Social Insurance, Committee of Experts on Native Labor, Committee of Experts on Article 408, Committee of Experts on Conditions of Work on the Principal European International Waterways, Correspondence Committee on Women's Work, and Committee of Statistical Experts.

9. Subjects already placed on the agenda of the 1935 Conference are: holidays with pay, unemployment among young persons, and methods of recruiting native labor. Subjects tentatively placed on the agenda of the 1936 Conference are: safety provisions for workers in the building industry, employment of children in the cinema industry, and collective agreements. Other topics under consideration for future conferences are: freedom of association (the right to organize in trade or labor unions), living conditions of workers, and regulation of opening and closing hours for stores.

10. Such a conference was held in 1933 on problems of "placement" as conducted by employment offices.

11. Cf. *The International Conference of Labor Statisticians, 1923, 1925, 1926, 1931; Preparatory Technical Conference on Conditions of Labor in the Coal Mining Industry, 1930; International Conference on Silicosis, 1930; Tripartite Conference on Reduction of Hours of Work and Unemployment, 1933* (Geneva, International Labor Office).

an international civil service; they are recruited as widely as possible from the countries belonging to the Organization and, at present, represent some 38 different nationalities. They are not responsible for official relations with their own countries, and are associated without respect to nationality in the various departments of the Office.<sup>15</sup>

The Office was originally expected to subserve the ends of the Conference without much other reason for existence; it has become an international research institution and publishing agency, and a repository and clearing house for information on a wide range of subjects. It regularly receives the official publications of various government departments of member and non-member countries and some 40,000 newspapers and periodicals, and has accumulated a library of books and pamphlets in addition to its files of periodical publications. It now publishes ten periodicals,<sup>16</sup> and the results of its inquiries to date have been put out in a hundred studies and reports, in addition to reports prepared especially for use in connection with the work of the Conference.<sup>17</sup>

Besides thus disseminating information, the Office is called on each year to answer in the neighborhood of a thousand inquiries from correspondents; it is in a position to supply data which could be collected nowhere else without extensive correspondence and resort to the services of many translators.

To facilitate the circulation of information and keep the Office in touch with the interests of various parts of the world, seven branch offices are maintained: in Delhi, London, Nanking, Paris, Rome, Tokyo and Washington; in fifteen more localities there are individual official correspondents in the employ of the central office.<sup>18</sup>

A large proportion of all member governments have designated certain sections in their departments of labor, or individuals, or committees, to correspond regularly with

the International Labor Office. Some of the committees comprise members of the several government departments dealing with matters of interest to the Labor Organization—such departments, for example, as those of labor and agriculture and those dealing with the merchant marine.

A number of countries which had no government departments of labor in 1919 have since established them, and there is no doubt that the work of the International Labor Office hastened their action. That work has done much to demonstrate to countries now in the early stages of industrialization the desirability and practicability of social control in an industrial economy.

Certain policies of the International Labor Organization, provided for by its constitution, deserve attention as having inaugurated wholly new practices in international dealing. The first innovation is the admission of employers' and workers' delegates to the Conference.<sup>19</sup> The provisions with respect to the selection of "non-government" delegates give to the nominees of unofficial organizations, even those who may be politically in opposition to the government in office, a claim to speak and vote in the name of certain classes of their compatriots in an official international assemblage. As the employers' and workers' representatives frequently vote in opposition to each other, government delegates are more often engaged in attempts to reconcile their conflicting demands than in defending national interests.<sup>20</sup>

A second innovation lies in the methods by which agreements are consummated.<sup>21</sup> Prior to the establishment of the International Labor Organization, international conventions had been drafted and signed by plenipotentiaries of each contracting party before being submitted to the proper government authorities for ratification. The constitution of the International Labor Organization provides for the "adoption" of draft conventions by a two-thirds majority vote of a representative assemblage, in which spokesmen for employers and workers are allowed to vote along with government representatives; the accredited representatives of governments in the Conference are not plenipotentiaries. The terms of membership require governments to bring draft conventions before those agencies of government "within whose competence the matter lies, for the enactment of legislation or other action" within a prescribed period.<sup>22</sup>

15. For a listing of these departments, cf. *The Annals*, March 1933, Appendix A.

16. These are: the weekly news bulletin, *Industrial and Labor Information*; the monthly *International Labor Review*, containing articles, reports and statistical data; the bi-monthly *Industrial Safety Survey*; the quarterly *Bibliography of Industrial Hygiene*; a biennial *International Survey of Legal Decisions on Labor Law*; the *Legislative Series*, a collection of the principal labor laws of all countries; the *Encyclopedia of Industrial Hygiene*, which has appeared in periodical instalments and is now complete; the *Monthly Summary* of activities of the Organization; the *Official Bulletin*, appearing at irregular intervals and containing official documents and notice of action taken by the Organization; and the *Bibliography of the International Labor Organization*, a cumulative listing of all books and articles in any language on the Organization and its work.

17. These publications are mostly grouped in open series according to subjects. The subjects of the several series so far, with the letters by which they are indicated for reference purposes, are: (A)—Industrial Relations; (B)—Economic Conditions; (C)—Employment and Unemployment; (D)—Wages and Hours of Work; (E)—The Disabled; (F)—Industrial Hygiene and Safety; (G)—Housing and Welfare; (H)—Cooperation; (I)—Employment of Women and Children; (J)—Education; (K)—Agriculture; (L)—Professional Workers; (M)—Insurance; (N)—Statistics; (O)—Migration; (P)—Seamen.

18. Cape Town, Belgrade, Berlin, Brussels, Bucharest, Budapest, Buenos Aires, Kaunas, Madrid, Prague, Riga, Rio de Janeiro, Tallinn, Vienna and Warsaw.

19. Employers' and workers' delegates, although nominated by industrial associations, must have credentials from their governments.

20. For an analysis of votes, cf. Amy Hewes, "The Conference at Work," *The Annals*, March 1933, p. 86.

21. *The International Labor Organization; The First Decade*, cited, p. 267-276.

22. Most countries submit them to their legislatures as the agencies most competent to bring national law into harmony with the conventions. Those that submit them to some other agencies are countries of comparatively primitive industrial organization.



A third innovation is the provision that correspondence between the Organization and its members need not pass through the regular diplomatic channels. Government departments "which deal with questions of industry and employment may communicate directly" with the Office through the representative of their government on the Governing Body, if such there be, or "through such other qualified official as the government may nominate for the purpose." This means that correspondence between the I.L.O. and departments of labor and other departments interested in its work need not go through a State Department in the usual fashion. These provisions have complicated the activity of the Organization; they have also given it realism and directness.

#### The Conventions<sup>23</sup>

The International Labor Organization has so far adopted forty conventions. Of these, 14 call for the establishment of various types of social insurance for industrial workers, agricultural workers and seamen; 7 call for prohibition or regulation of child labor in various types of employment; 5 set limits on hours and times of work; 4 deal with prevention of industrial accidents or diseases; 2 with the provision of public employment offices; and 2 respectively with the engagement and repatriation of seamen; while single conventions deal with the subjects of industrial employment of women at night, inspection of emigrants, minimum wage-fixing machinery, the use of forced or compulsory labor, and freedom of association for agricultural workers on the same terms as industrial workers.

The standards set by conventions generally approximate those already in force in countries where the type of legislation dealt with is most highly developed.<sup>24</sup> A higher standard would have little chance of adoption in countries where standardization is most needed, but by extending the adoption of expedients and standards already tested substantial reform has been brought about in such areas. While the adoption of these internationally does not directly benefit workers in countries where any given standard has been already observed, it makes their position more secure and provides a new competitive basis from which they can advance.

#### Any member government or organization

23. For a general discussion of standardization by agreement, cf. Ernest Mahaim, "The Principles of International Labor Legislation," *The Annals*, March 1933, p. 10. For a clear account of both the philosophy of standardization and the process employed by the International Labor Organization, cf. Joseph P. Chamberlain, "Legislation in a Changing Economic World," *The Annals*, March 1933, p. 30. For a discussion of the economics of such standardization, cf. Herbert Feis, "International Labor Legislation in the Light of Economic Theory," *International Labor Review*, April 1927.

24. For a comparison of the standards set by conventions and those in force (except code provisions) in the United States, cf. *Geneva Special Studies*, August 1931, and Alice S. Cheyney, "A Comparison of Convention Provisions with Labor Legislation in the United States," *The Annals*, March 1933, p. 176.

of employers or workers entitled to representation in the Conference may propose subjects for conventions. The Governing Body or the Conference may place a subject on the Conference agenda. When a subject has been listed for consideration by the Conference, the International Labor Office prepares a survey of the "law and practice in the different countries" respecting it, which is sent to all member governments before the subject is discussed in the Conference. In preparing this survey the Office may have occasion for correspondence with governments and may invite them to furnish information and explanations concerning conditions in their countries. In the discussions at the two successive Conferences and the correspondence which takes place between them, the preferences of all member governments have opportunity for expression and a draft convention, as adopted, is invariably the product of negotiation and compromise.

On the average there are now seventeen countries committed to each of these agreements, but the actual numbers of ratifications given to various conventions differ widely.<sup>25</sup> All conventions remain permanently open to ratification, and of the 66 ratifications registered during the past six months 10 were of conventions adopted more than ten years ago. It is not to be expected, nor is it necessary to achieving the objects of the agreements, that each convention should be ratified by every member government. There is, for example, no need for countries without seacoasts to enter into agreements regulating employment on vessels. Australia and Canada ratify but few conventions, because they, like the United States, are federal countries in which labor legislation is in general the affair of the constituent states. For these and less obvious reasons the toll of ratification seems destined always to remain incomplete, but not necessarily to the serious detriment of the objects of the conventions.

Countries industrially and commercially most important have not been backward in ratification: Great Britain and France have each ratified 18 conventions, Germany has ratified 17, and Italy 19. The Scandinavian countries, Holland and Poland have ratified from 10 to 17 each, and Czechoslovakia has ratified 12. In the Orient, Japan has ratified 12 conventions and India 13. The more im-

25. Of the 30 conventions adopted before 1931—those on which there has been full time for independent governmental action—15 have been ratified by from 20 to 30 governments, and 7 by from 15 to 19; of the remaining 8, 5 have been ratified by from 10 to 14 governments, and 3 by less than 10. There are 11 ratifications pending; these have been registered by various governments as due to take effect when and if certain other governments ratify, or unconditionally after a period during which national practice can be adjusted. Twenty-nine more ratifications have been "approved" by the "competent" branches of governments but have not yet been formally registered, while a further 97 have been recommended to the treaty-making authorities in various countries by other branches of their own governments. The above figures are as of January 1, 1934. Cf. International Labor Office bi-monthly chart, *Progress of Ratifications*.

portant countries of South America were in general not among the early ratifiers, but in the last few years they have been registering ratifications at an increasing rate: Uruguay has given 30 ratifications, Colombia 24, Chile 19, Argentina 9 and Venezuela 4.

Enforcement, like ratification, is entirely in the hands of each government. But there is an increasing tendency to regard the undertakings represented by conventions as continuing joint enterprises. The constitution of the International Labor Organization outlines a possible procedure for compelling a member government to observe the conventions it ratifies, but this has never been put into effect.

The constitution also provides that each member government shall make an annual report to the International Labor Office on the measures taken "to give effect to the provisions of conventions to which it is a party"—this report to be made in such form and include such items as may be requested by the Governing Body of the Office and a summary thereof to be laid before the next session of the Conference by the Director of the Office. This provision affords a basis for the present method of encouraging enforcement.

It is an established policy of the Organization to refrain from forcing action by narrow margins against solid opposition from any group. This policy has fostered an increasing sense of freedom from compulsion; furthermore, a sense of integration and collaboration in a common cause has been developed by recurrent meetings. Consequently defensive attitudes on the part of members in their relations with one another and with the various agencies of the Organization have been gradually abandoned, and member governments have been increasingly frank both in making their own annual reports and in asking that the reports of others reflect actual conditions.

At first, attention was paid only to the degree in which the legislation enacted by any country met the requirements of the conventions it had ratified. More recently the enforcement of national legislation has been considered, and governments have also been invited to supply information as to the difficulties which block the ratification of the conventions to which they have not yet become parties. The contents of the annual reports and the problems they raise are now made subjects of voluntary correspondence between the reporting governments and the Office. Delegates discuss in the Conference the problems and efficacy of enforcement, and government delegates are zealous to defend the good faith of their governments and to see it substantiated in practice at home.

## RELATIONS WITH WORLD COURT, LEAGUE AND GOVERNMENTS

### World Court Opinions on the I.L.O.

The International Labor Organization, like any other, is bound by its constitution: questions which arise with regard to its powers, eligibility for membership and the like must be decided by the interpretation placed on that constitution. The latter provides that questions with respect to its interpretation or that of conventions concluded under its terms shall be referred for decision to the Permanent Court of International Justice.<sup>26</sup> The Court may be asked to give its advisory opinions on such questions only at the instance of a government belonging to the Organization or of the Governing Body. The request is made through the Council of the League of Nations.

Six requests for interpretations have been made, four originating with the Governing Body and two with the French government. The Court has in every case given a wide interpretation to the provisions in question, and on issues involving competence of the Organization it has supported the interpretations under which the Organization itself had initiated action.

One opinion had to do with the selection of delegates to the International Labor Conference. The Court held that the constitutional provision on the subject does not require a member government to send as workers' delegate the nominee of the national labor organization which has the largest number of members, but permits it to appoint the common nominee of a group of organizations with a larger combined membership, when such a course "may be regarded as best for the purpose of insuring the representation of the workers of the country."<sup>27</sup>

One opinion was on the question of the eligibility of the Free City of Danzig to membership in the Organization. It was given in the negative on several grounds, chief among them the fact that Danzig was not a free agent in the conduct of its international relations and could not act independently with respect to international labor conventions.<sup>28</sup>

The first and so far the only request for an opinion interpreting a convention was made in 1932.<sup>29</sup> The convention for prohibiting employment of women in industry at night was adopted in 1919 and has been ratified by 28 countries. In some it has been enforced as applying to manual workers only, and in others as applying also to women in supervisory and managerial capacities. A motion for a clarifying amendment failed of adoption in the 1931 Conference.

26. *Treaty of Versailles*, Part XIII, Art. 423.

27. International Labor Office, *Official Bulletin*, August 16, 1922.

28. *Ibid.*, September 30, 1930.

29. *Ibid.*, December 15, 1932.

The Court was then asked for an interpretation, and rendered an opinion to the effect that the purport of the convention was to exclude from night work women in supervisory capacities as well as manual workers. The session of the Conference which convened June 4, 1934 will decide whether to leave the convention as it stands, under the interpretation given by the Court, or to amend it by a clause exempting women employed in certain capacities.

With respect to competence, the first opinion given upheld the right of the Organization to deal with conditions of labor in agriculture against the assumption that it could deal only with industrial employment.<sup>30</sup> The second opinion answered in the negative the direct question whether the competence of the Organization extended to the examination of "proposals for the organization and development of methods of agricultural production and of other questions of like character," but it took occasion to affirm that "the Organization cannot be excluded from dealing with matters specifically committed to it by the Treaty on the ground that this may involve in some aspects the consideration of the means or methods of production or of the effects which the proposed measures would have upon production."<sup>31</sup> The third opinion similarly confirmed the power of the Organization to deal with measures that might incidentally regulate the work of employers.<sup>32</sup>

The opinion of the Court held that the Organization did have such power and adduced reasons for that conclusion which, in principle, established for the Organization a competence commensurate with the broad purposes assigned in its constitution.<sup>33</sup> It seems practically to ascribe to the Organization the power to decide what matters are germane to its purpose, and no question with respect to its competence has been formally raised since the opinion was given eight years ago.

#### The I.L.O. and the League of Nations

The relation of the International Labor Organization to the League of Nations is not easy to formulate. The Labor Organization was conceived separately from the League and planned by a different commission from that which drafted the League Covenant. Although the constitutions of both organizations were originally adopted as parts of the Treaty of Versailles, that of the Labor Organization stands alone as Part XIII of the Treaty, susceptible of separate amendment and containing full provision for all the activ-

ities of the Organization. Moreover, nothing in any other part of the treaty conditions the membership, structure or activities of the Labor Organization.

The two institutions, however, were simultaneously established to promote world stabilization, and the constitution of the Labor Organization provided for their collaboration at various points. To understand the present independence of the two institutions so closely allied in origin, it is necessary to consider the provisions in the constitution of the International Labor Organization together with the application which has been given them in practice.

The constitution provides that "membership of the League of Nations shall carry with it membership of the International Labor Organization."<sup>34</sup> The provision was originally inserted as a definition of eligibility and has not operated to restrict membership in the Organization to League members.<sup>35</sup> Germany and Austria were admitted to membership in the Labor Organization before they became members of the League, and of the five states which at one time or another have given notice of intention to withdraw from the League none has made this notice applicable to its relations with the Labor Organization. It is true that Germany, shortly after giving notice of resignation from the League, took measures to withdraw from the Labor Organization as well; but it sent delegates to the International Labor Conference after severing active relations with the League, and its action with respect to the Labor Organization followed a dispute which arose in the Conference.<sup>36</sup>

According to the constitution, the expenses of the Labor Organization are to be paid "out of the general funds of the League."<sup>37</sup> A budget prepared by officers of the Labor Organization is therefore submitted each year to the League Assembly. The members of the Organization belonging to the League pay their dues through the League treasury, while the few members which do not hold membership in the League pay their contributions to the Director of the Office.

The permanent office of the Labor Organization has been established at Geneva, "the seat of the League of Nations," and is "entitled to the assistance of the Secretary-General of the League of Nations in any matter in which it can be given," as provided in the constitution.<sup>38</sup> But the provision that it should be established "as part of the organization of the League" has been conditioned

30. *Ibid.*, September 6, 1922.

31. *Ibid.*, September 13, 1922.

32. *Ibid.*, Vol. XI, No. 5 (revised edition).

33. Permanent Court of International Justice, *Advisory Opinion No. 13*, p. 17. The labor of employers when engaged in performing the work of a trade has been, in the United States, also subjected to the general regulations applying to work of employees. Cf., for example, the President's Re-Employment Agreements for the Barbers and Beauticians, the Laundry and the Printing Trades.

34. *Treaty of Versailles*, Part XIII, Art. 387.

35. *The International Labor Organization; The First Decade*, cited, p. 34-40.

36. International Labor Office, *Official Bulletin*, December 31, 1933, p. 409, 410; Francis G. Wilson, "Nazis and the I. L. O.," *The Federationist*, October 1933.

37. *Treaty of Versailles*, Part XIII, Art. 399.

38. *Ibid.*, Arts. 392, 398.



by the further stipulation that it should be charged with such "powers and duties as may be assigned it by the Conference" of the International Labor Organization itself—a conference of the sovereign states belonging to the Organization and in no degree responsible to any organ of the League.<sup>39</sup> This second provision has resulted in the establishment of the Labor Office without organic relation to the Secretariat of the League, and with complete autonomy under the Governing Body and Conference of the Labor Organization. The provision that ratification of international labor conventions shall be effected by a formal communication to the Secretary-General of the League corresponds with the requirement that all international treaties ratified by League members be registered with the Secretariat<sup>40</sup> and with the present practice of such registration even by non-member countries. A provision that the Secretary-General of the League should play a certain part in the procedure laid down for compelling enforcement of ratified conventions has been inoperative because, as has already been explained, the provision for the whole procedure has remained a dead letter.<sup>41</sup>

Finally, amendments to the constitution must be ratified by three-fourths of the members of the Organization and by the "states whose representatives compose the council of the League."<sup>42</sup> These states must always be members of the International Labor Organization. The power granted this particular category of members is given to the states individually, and their action is not taken collectively or through their representatives at Council meetings. The League Council, as a body, is the agency empowered to decide "any questions as to which are the members of chief industrial importance" in connection with distribution of seats on the Governing Body.<sup>43</sup> But again it must be remembered that the Council represents a group—and not always entirely the same group—of members of the Organization. The effect of the constitutional provisions as applied in practice has been to afford means of collaboration between two essentially separate institutions.

The International Labor Organization came into action more than a year before the first meeting of the League Assembly. It has its own membership, its own field of work and its own methods, but there is close collaboration between the Labor Organization and the League wherever their interests converge.

By established custom the Labor Organization is regularly represented on League committees dealing with matters in which it has an immediate interest, and vice versa.<sup>44</sup> For

example, the chief of the Native Labor Section of the Office sits on the Permanent Mandates Commission of the League and a representative of that League commission sits on the Native Labor Committee of the Office; the Chief of the Statistical Section of the Office sits on the League Committee of Statistical Experts and the latter is represented on a corresponding committee of the Office. Certain "mixed" committees include equal numbers of representatives of each of the two institutions.<sup>45</sup> Reciprocal representation prevents overlapping of work, places the specialized capacities of each institution at the disposal of the other and gives opportunity to discover where the objects of either may incidentally be thwarted or advanced by the other's undertakings. There is also frequent exchange of informational and other services. The League turns to the Labor Organization for information on all aspects of employment, while League studies afford background and orientation to those of the Labor Organization.

In its early years the Labor Organization had assumed that it should deal only with employment conditions and measures for the direct amelioration of working life, leaving questions of general economic adjustment to the Economic and Financial Commissions of the League of Nations. But lately the Labor Organization has laid claim to a wider province.

In 1933 the Conference adopted for presentation to the World Monetary and Economic Conference at London a resolution which connected the purposes of the Organization with large issues of economic adjustment. The resolution, after declaring among other things that social justice requires order and equilibrium in the economic system, made certain suggestions, the chief of which dealt with:

1. The inauguration of national and international public works "on a large scale calculated to encourage the general development of the economic situation of the countries concerned."

2. Invitation of the League and the Labor Organization to the Lausanne Conference for settling problems of reparations and other international political debts "in order to help in securing a final settlement in harmony with the general interests of world economy."

3. Joint action to lay the foundation for "an international monetary system possessing the necessary qualities of stability."

4. Examination of problems of production and international trade "by governments in collaboration with delegates from the most representative organizations of employers and workers in each country, for the purpose of concluding, in a severely practical spirit, such international Conventions as will ensure the resumption of economic activity, on the basis of broad concerted plans,

39. *Ibid.*, Arts. 392, 396.

40. *Ibid.*, Art. 405.

41. *Ibid.*, Art. 412.

42. *Ibid.*, Art. 422.

43. *Ibid.*, Art. 393.

44. Cf. League of Nations, *Monthly Summary*, February 1934, p. 49-62.

45. Examples are the Mixed Committee on Economic Crises, the International Committee on Hygiene and Health Insurance, and the Mixed Committee on Inland Navigation.

taking into consideration the gradual and systematic increase in the consumption of the masses and the co-ordinated extension of international trade."<sup>46</sup>

The adoption of this resolution may be taken as an acknowledgment that the Labor Organization has abandoned the policy of confining its interests to measures for immediate amelioration of working life as distinct from undertakings for wider economic adjustment.

The Organization is now considering a proposal for a draft convention to reduce hours of work; the purpose of the proposal is not to relieve workers from excessive toil nor to accord them desirable leisure—its object is to spread work. It is primarily to offset the effects of mass production which provides more than the world can buy under the present distribution of work and wealth.<sup>47</sup> If maintenance of wage rates can be associated with reduction of hours, both work and wealth will be somewhat more widely distributed.

No rivalry between the League and the Labor Organization is threatened by the adoption of this policy by the I. L. O. Since the League commissions, in promoting general adjustments within and between national economies, are particularly concerned with economic stability, while the Organization is concerned with the life which various methods of stabilization may provide—especially for the masses—the labors of the two institutions are potentially complementary wherever they converge.<sup>48</sup> Had the Labor Organization and the League been set up in the beginning without any association whatever, their present functional relations would probably have developed spontaneously.

#### Relations with Non-Member States

There remain now outside the International Labor Organization six presumably eligible countries:<sup>49</sup> Afghanistan, Costa Rica, Ecuador, Egypt, the United States, and the Union of Soviet Socialist Republics. Of the countries outside the Organization Egypt, which is in a somewhat anomalous position with respect to autonomy, is agriculturally important; Afghanistan, Ecuador and Costa Rica are neither large, populous nor highly developed economically, and play no significant rôle in international affairs; the resolu-

tion adopted by Congress regarding United States membership in the I. L. O. indicates the end of this country's detachment from I. L. O. activities; the non-membership of the U.S.S.R., however, leaves one serious gap in the otherwise virtual inclusiveness of the Organization. The Soviet Union has so far taken no part in the work of the International Labor Organization except for a certain amount of exchange of information. It has, on occasion, drawn on the store of factual data in the possession of the Office and is now sending to Geneva most of its important publications in exchange for those of the Office.

#### CONCLUSION

It is impossible to point to any list of reforms as achievements of the International Labor Organization. The Organization is simply an instrumentality which member nations use to effect social-economic adjustments involving their international relations. The joint undertakings of the members call for extensive changes in the practices of some countries and few modifications or none in those of others. These undertakings are accomplished gradually, through measures taken by member countries as they reach a stage of economic development at which the measures become applicable. The achievements of the Organization, even in pursuit of some single undertaking such as securing general observance of age limits for the employment of children, are cumulative, geographically extensible with the spread of industrialism, and perpetually incomplete and in process of accomplishment.

Moreover, it will never be possible to know what reforms would have been instituted in the past fifteen years had the Organization not existed. Its efforts for international standardization, however, have undoubtedly been responsible for a vast extension of social legislation. This legislation has materially improved conditions of working life in many parts of the world and contributed to the economic security of workers everywhere. During the present depression, wherever there have been legal minimum standards for working hours, wages and conditions of employment generally, or social insurance systems of various sorts, these have proved a veritable bulwark of defense for national standards of living. And even during the depression, the adoption of new standards by the Conference and the extension of previously adopted standards to new territory by the action of member governments have effected positive improvement in the life of large groups of workers.

International action for social and economic adjustment is of recent development and therefore still experimental. States are uncertain as to the aspects of national policy

46. "Resolution adopted by the Sixteenth Session of the International Labor Conference concerning Action to be Taken to Remedy the Present Crisis," *International Labor Conference Proceedings*, 1933, p. 686.

47. For a compact analysis of issues involved, cf. *Reports of the Preparatory Conference on Reduction of Hours of Work, Industrial and Labor Information* (Geneva, International Labor Office), January 23, and February 6, 1933.

48. Wallace McClure, *World Prosperity as Sought through the Economic Work of the League of Nations* (New York, Macmillan, 1933).

49. There are several other countries which do not hold membership in the Organization, but they are ineligible or of dubious eligibility because of some element of dependence in their political status.

which can profitably be coordinated internationally and the types of arrangements or negotiation by which such coordination can best be effected. The ruling forces in the economic field seem at present to be those of competition driven by an increasing tendency to mass production, demanding greater and greater markets at home or abroad. These forces put pressure on each producer and each nation to find means of underselling competitors. The international task of the Labor Organization is to bridle these forces. Its purpose is to make them serve human ends. It acts to prevent them from depressing standards of living; it encourages "backward countries" to adopt such measures as will insure to their workers a share in the increase of produce which follows industrialization and at the same time prevent them from flooding the markets of countries whose workers have already attained a relatively high standard of living. By the promotion of such measures it advances and stabilizes the economic status of workers. At the same time, by making it no longer easy to exploit the peoples of backward regions, it may decrease the temptation to engage in certain forms of commercial enterprise which in the past have created international rivalries culminating in war. Moreover, a rise in the standards of living of backward regions offers the only solution so far proposed as an alternative to the tariff for protecting standards of living in advanced countries.

World competition, however, does not operate between distinct and mutually exclusive national entities. In addition to the international competition that exists between groups ensconced behind tariff walls, there is also competition between the producers of one commodity anywhere and the producers of alternately usable commodities—as between the producers of coal and oil, or of cotton and silk and silk substitutes; there is competition for the fruits of production between employers or investors and workers, and a sort of quasi-competition between people in their capacities as producers of a few things and as consumers of many things; and there is similarly competition of a sort between mutually dependent departments of the world's complex economy—as between industry and agriculture.

The functional representation provided for in the International Labor Organization allows direct dealing with all these types of competition. The independent voting of government, employers' and workers' delegates in the Conference, the holding of special conferences to act on issues in particular industries, the establishment of standing committees to deal with specific problems make it possible for those directly interested in

control of any type of competition to meet and initiate action. Such functional representation in a permanent international agency that makes official proposals which member governments are pledged to consider opens new possibilities of social and economic adjustment. If the world comes to the point of attempting any constructive sort of international economic planning, it must be through some such agency as the I.L.O., which provides for representation of the various groups whose interests are involved—the employers, the workers and the consuming public, and the various industries which depend in one way or another on each other, as well as national and regional groups.

It has sometimes been contended that the whole work of the Organization is a futile attempt to bolster up a dying order—that representation of governments, employers and workers in the Conference constitutes representation of the interest groups created by the capitalist system which must be abandoned before the masses of mankind can prosper or enjoy permanent peace.

Those who believe that the Organization has a more constructive task to perform think it has no responsibility for either encouraging or discouraging any particular type of national economy. They see it as an instrumentality which may be used in negotiations between economies of any type. They contend that, whatever the delegates of a given group from any member country may happen to stand for at a given time, the representation provided for in the Organization is essentially functional: they point out that it calls for representation of the nation as a whole and in its consuming capacity through government delegates; of planning, direction and managerial responsibility through delegates nominated by those discharging the employment function; and of personal experience of work and the scope of life which employment permits or provides through workers' delegates.

They further point out that some forms of competition are bound to exist and to require social control under any economic organization so far devised—that the resources and the labor devoted to one type of production are inevitably withheld from another, and that so long as there is commerce between separate nations or economic groups, the decisions of any group with respect to allocation will have to be taken with some reference to what is being done elsewhere. They point out that what goes into collective services cannot be distributed for individual disposition, and what is used to provide means of future production cannot be used to provide means of present enjoyment; there is no need to elaborate the contention that



types of competition or conflicts of interest exist quite independently of competitive capitalist organization.

So long as adjustments need to be made, and national or group economies are neither completely cut off from one another nor merged into one, there will be need of adjustments between as well as within economies. Democracy and dictatorship, fascism, monarchy and socialism have already met in the International Labor Conferences to consider standards for observance under any type of economy. The Organization itself is committed to democratic methods, admitting all duly accredited representatives and acting by majority decision, no member being constrained, however, by the decision of the group. So long as nations will accept this type of dealing in their international relations they can make use of its services.

The conventions are here grouped under headings indicating the degree in which they involve international interests.<sup>51</sup> It must be remembered, however, that the indirect effects of agreement on matters not intrinsically international, such as limitation of working hours, may be more important than the direct effects of agreements on matters intrinsically international such as arrangements for inspection of emigrants. The numbers are of ratifications so far registered.

#### *Matters requiring international action*

- Marking of weights on heavy packages transported by vessel, as a precaution against accident. (23)
- Prevention of accidents in loading and unloading ships; 2 agreements; one in 1929 (3) and one in 1932. (2)
- Exemption of emigrants on board ship from inspection by more than one government. (18)
- Establishment of public employment offices to control recruitment of seamen and progressive abolition of private agencies. (29)
- Public supervision of seamen's articles of agreement. (16)
- Repatriation of discharged seamen. (14)
- Provision of unemployment indemnity for shipwrecked seamen. (20)
- Prohibition of employment of boys under 14 on vessels (27), and of boys under 18 as trimmers and stokers on vessels. (27)
- Requirement that boys between 14 and 18 employed on vessels must have an annual medical examination for certificate of fitness. (25)

#### *Matters involving specific reciprocity*

- Establishment of systems of public employment offices coupled with arrangements to report to the I. L. O. at least every three months on the extent of unemployment and methods used to relieve it. (29)
- Reciprocal engagement to give "equality of treatment" to citizens of other ratifying countries under systems of workmen's compensation for industrial accidents. (30)

#### *Matters indirectly of international interest*

- Limiting working hours to 8 in a day or 48 in a week, in industry (19), in commerce and

About a year ago the Director of the Office wrote as follows:

"For some years past, the orientation of the International Labor Organization has been gradually changing. Its effort has not been directed so much towards purely protective legislation as towards adjusting social and economic necessities to each other. Its domain has broadened to embrace the whole field of social economics. From now on, its significance will be still more in that direction.

"As the world becomes more closely knit, its economic destinies are more and more the common lot of all its citizens, without distinction of nationality. It is only through cooperative planning and action that disasters like the great depression can be avoided in the future. That is the most inescapable lesson of the crisis; and it is for that reason that the international economic machinery established at Geneva, of which the International Labor Organization forms an increasingly important part, must grow rather than diminish in importance if the recurrence of economic catastrophes is to be prevented."<sup>50</sup>

### APPENDIX

- offices (4) (adopted only in 1930); limiting hours of work in coal mines (1) (adopted only in 1931).
- Provision of a weekly rest day. (23)
- Prohibition of night work in bakeries. (9)
- Prohibition of employment of women in industry at night. (28)
- Fixing of maximum hours to be worked in coal mines (1) (adopted only in 1931).
- Fixing a 14-year minimum age for employment in industry (24); in agriculture during school hours (16); in non-industrial occupations (1) (adopted only in 1932).
- Fixing a 16-year minimum age for night work in industry. (28)
- Workmen's compensation for accidents in industry (14); for accidents in agriculture on the same terms as in industry (18); for certain occupational diseases (25).
- Sickness insurance in industry (15), and in agriculture (10).
- Old age insurance for persons employed in industry or commerce, or in the liberal professions and for outworkers and domestic servants. (Adopted in 1933.)
- Old age insurance for persons employed in agriculture. (Adopted in 1933.)
- Invalidity insurance for persons employed in industry or commerce, or in the liberal professions, and for outworkers and domestic servants. (Adopted 1933.)
- Invalidity insurance for persons employed in agriculture. (Adopted 1933.)
- Widows and orphans insurance for persons employed in industry and commerce, and in the liberal professions, and for outworkers and domestic servants. (Adopted in 1933.)
- Widows and orphans insurance for persons employed in agriculture. (Adopted 1933.)
- Child-birth vacations with insurance. (14)
- Abolition of fee-charging employment agencies. (Adopted in 1933.)
- Regulation of use of white lead in painting. (22)
- Minimum wage-fixing machinery. (14)
- Right of agricultural workers to whatever freedom to organize is accorded industrial workers in their country. (25)
- Avoidance of forced or compulsory labor (13). (Adopted only in 1930.)

51. For a classification according to the amount of "legislative progress" they have provoked and some discussion of that progress, cf. *The International Labor Organization; The First Decade*, cited, p. 287-315.

50. *The Annals*, March 1933, p. 2-3.